

**Resolution Number TC-1745**

**BE IT HEREBY RESOLVED**, the Transportation Commission's Special and Regular Meeting Minutes of June 17 and 18, 2009 are hereby approved as published in the official agenda.

**Transportation Commission of Colorado  
Regular Meeting Minutes  
June 18, 2009**

**Chairman Bill Kaufman convened the meeting at 9:40 a.m. in the auditorium of the headquarters building in Denver Colorado.**

**PRESENT WERE:** Bill Kaufman, Chairman, District 5  
Kimbra L. Killin, Vice Chairwoman, District 11  
Henry Sobanet, District 1  
Jeanne Erickson, District 2  
Gregory B. McKnight, District 3  
Heather Barry, District 4  
George Krawzoff, District 6  
Doug Aden, District 7  
Steve Parker, District 8  
Les Gruen, District 9  
Gilbert Ortiz, Sr., District 10  
Stacey Stegman, Secretary/Public Relations Director

**ALSO PRESENT:** Executive Director Russ George  
Peggy Catlin, Deputy Executive Director  
Pam Hutton, Chief Engineer  
Jennifer Finch, Transportation Development Director  
Casey Tighe, Audit Division Director  
Heather Copp, Chief Financial Officer  
Rick Gabel, Staff Services Director  
Herman Stockinger, Government Relations Director  
Tony DeVito, Region 1 Transportation Director  
Tim Harris, Region 2 Transportation Director  
Weldon Allen, Region 3 Transportation Director  
Bob Garcia, Region 4 Transportation Director  
Richard Reynolds, Region 5 Transportation Director  
Randy Jensen, Region 6 Transportation Director  
Harry Morrow, Chief Transportation Counsel  
Karla Petty, Federal Highway Administration  
Division Administrator  
Vince Rogalski, Statewide Transportation Advisory

## **Committee (STAC) Chairman**

**AND: Other staff members, organization representatives,  
the public and the news media**

**Two audiotapes of the meeting were made and supporting documents are filed in the Transportation Commission office.**

### **Audience Participation**

**Louisville Mayor Charles Sisk and Broomfield Mayor Patrick Quinn requested the Commission's support for the U.S. 36 Mayors/Commissioners Coalition and 36 Commuting Solutions' application for the Transportation Investment Generating Economic Recovery (TIGER) Discretionary Grant. The group is working closely with CDOT, the Regional Transportation District (RTD), FHWA and the Federal Transit Administration (FTA). It was pointed out that the \$300 million application could be matched by RTD FasTracks funds identified for the US 36 Bus Rapid Transit managed lane. Commissioner Barry thanked the mayors and the coalition for the intensive work on the US 36 Corridor over the past several years.**

**ColoRail Passenger Association member Albert Melcher stated the ColoRail Passenger Association filed a lawsuit against the Federal Transit Administration to block the current redevelopment plan for Denver Union Station. Background information on the project and an outline of ColoRail's concerns with the current plan, namely, capacity, cost and seamless connectivity were distributed to the Commission.**

### **Executive Director's Report**

**Executive Director George summarized his activities since the meeting in May. Public outreach included a tour of Thornton, a meeting with the I-70 Coalition Board of Directors, speaking to the City Club of Denver about transportation in general, attending a Recovery Accounting Citizen Board meeting along with Administration and Human Resources Director Celina Benavidez, meeting with the Colorado Equipment Dealer's Association, and joining a panel on integrated transportation, hosted by the Urban Land Institute.**

**Internal meetings were mainly focused on management of ARRA deadlines and reporting requirements; implementing the FASTER bill, including details for creation of the Rail and Transit Division; the upcoming**

**Transportation Legislation Review Committee meetings; and the Freight Advisory Committee.**

**Former State Representative Greg Rippy was recognized by Commissioner Aden.**

### **Chief Engineer Report**

**Chief Hutton used a powerpoint presentation to provide a status report on ARRA accomplishments. The Governor has certified 92 highway projects worth \$813 million/\$402 million in ARRA funds and 45 transit projects work \$158 million/\$133 million in ARRA funds. As of May 30<sup>th</sup>, 6 projects are under construction and 65 people have direct jobs, with 2593 hours reported and a payroll of \$83 thousand.**

**On the highway side, 92 projects have been identified between CDOT and local agencies; 46 projects have been obligated worth \$227 million; 36 projects have been advertised; 31 bids were opened and 25 contracts have been awarded with 4 pending contracts; 20 notices to proceed have been issued; and 10 projects are under construction. Chief Hutton pointed out the CDOT is currently ranked at 19<sup>th</sup> among state DOTs in total obligation.**

**Regarding transit, \$10.3 million of CDOT's \$12.5 million allocation has been obligated to the Summit County Fleet Maintenance Facility and the remaining \$2.2 million will be used for the rolling stock needs of local transit agencies. Local transit authorities are submitting applications to FTA for the remaining \$108 million.**

**Chief Hutton said the review meeting with the GAO was held and the GAO was pleased with CDOT's cooperation and administration of the ARRA funds. Accumulated bid savings total \$29 million; she expected that each state would get their apportionment obligated and thereby redistribution would not be necessary.**

**Further, CDOT and FHWA added an addendum to the Stewardship Agreement to ensure the documentation and success of the ARRA. Internally, each CDOT division is working closely to ensure the success of the Act. Local Agency workshops have been held in Region 3 and 5 regarding project delivery.**

### **Deputy Executive Director Report**

Deputy Executive Director Catlin distributed the Interstate 25 Express Lanes progress report for May. Ms. Catlin stated that revenues and traffic continue to demonstrate stability. The second highest volume of over 14 thousand vehicles was recorded on May 18th. A license plate video toll payment option has been in place since January and in May, the video toll accounted for 10 percent of the revenues.

#### **FHWA Division Administrator Report**

FHWA Division Administrator Karla Petty informed the Commission that CDOT, FHWA, FTA, RTD and other regulatory, planning and transportation agencies signed the Colorado Planning and Environmental Linkages (PEL) Partnering Agreement on June 11<sup>th</sup>. The PEL participants will develop a process to support individual charters, goals and initiatives from planning to construction to maintenance.

She expected the Highway Trust Fund would experience a shortfall by August 2009. Regarding ARRA at the national level, she reported \$14.8 billion has been obligated and over 4500 projects have been authorized. She expected each state to obligate their funds by the June 30<sup>th</sup> deadline, especially because on June 15<sup>th</sup> \$175 million was outstanding and by June 17<sup>th</sup>, the figure dropped to \$46 million.

Ms. Petty used a powerpoint presentation to describe the FHWA Recovery Act Risk Management Plan. The top risks identified are local public agency oversight; plans, specifications and estimates quality; contract administration; quality assurance, the Disadvantaged Business Enterprise (DBE) program; eligibility/improper payments; achievement of program goals regarding economically distressed areas and maintenance of effort; and Indian Reservation roads and Federal Lands Highway. Ms. Petty also discussed the detailed strategies to respond to all risks, namely, resource enhancement; communications; outreach and education; sharing risk; measures and monitoring; developing tools and information; national oversight; division office oversight; and reassessment and feedback.

#### **Statewide Transportation Advisory Committee Report**

STAC Chairman Vince Rogalski reported on the STAC meeting held on Friday July 17<sup>th</sup>. Discussions focused on the Bridge Enterprise and the FY 2009 revenues.

#### **Audit Review Committee Report**

**ARC Chairwoman Killin reported the ARC approved for public release an internal audit of Preconstruction Engineering. The audit determined that there is no evidence of system quality problems, but there were indications the design quality could be improved. The recommendation was that CDOT should identify, track, and review the causes for revisions under ad, change orders and claims and then issue guidelines to address any design problems identified.**

**Reports included implementation of the State Auditor's recommendations regarding the Aeronautics Division; improvements to CDOT's tracking of local agency audits; revisions to the consultant contract payment terms; and the control self-assessment workshops.**

#### **Transit and Intermodal Committee**

**Transit and Intermodal Committee Chairman Parker said the draft Bicycle/Pedestrian Policy Directive was reviewed. The Committee provided guidance that the needs of bicyclists and pedestrians should be routinely included in the planning and operation of transportation facilities. Regarding formation of the Transit and Rail Advisory Committee, an interim conference call would be held early in July to allow the Transit and Intermodal Committee members to discuss whether or not all the critical areas of interest are represented by the applicants.**

#### **Disadvantaged Business Enterprises Committee**

**DBE Committee Chairwoman Barry stated that based on feedback from the business community, the DBE Committee recommends that the Transportation Commission establish a Joint Committee to evaluate the Good Faith Effort Process and recommend improvements. An overview of the annual DBE goal setting process for Federal Highway and Federal Transit Administrations was reviewed and action on the DBE/Transit goals is slated for action in July. Regarding DBE participation, overall participation is 8.9 percent and DBE participation on ARRA projects at 5.42 percent. The overall DBE goal is 12.8 percent for 2009.**

**Chairman Kaufman then officially appointed Commissioner Ortiz to serve on the DBE Committee.**

#### **Consent Agenda**

**Chairman Kaufman asked for consideration of the consent agenda and on a motion by Aden a second by Erickson and a vote of the Commission, the following resolutions were unanimously adopted.**

**Resolution Number TC-1735**

**BE IT HEREBY RESOLVED**, the Transportation Commission's Special and Regular Meeting Minutes of May 20 and 21, 2009 are hereby approved as published in the official agenda.

**Resolution Number TC-1736**

**WHEREAS**, the Colorado Transportation Commission has statutory authority pursuant to 43-1-106, C.R.S. to approve, accept, and amend various planning documents resulting from Section 135 Title 23 of the USC, and 43-1-1101 through 1105 C.R.S.; and

**WHEREAS**, the Commission adopted the 2008 – 2013 Statewide Transportation Improvement Program (STIP) in March, 2008; and

**WHEREAS**, the STIP is occasionally amended due to significant changes in project scope or projects need to be programmed in or out of the first four years of the STIP, thereby requiring a policy amendment to the STIP; and

**WHEREAS**, the Section 450 Title 23 of the CFR requires a public process be implemented for review and comment on proposed policy amendments, as well as Transportation Commission approval of said amendments; and

**WHEREAS**, the public process for the policy amendments set before the Commission for the month of Amendment #14 was provided from May 14 through June 17, 2009 and no comments were received; and

**WHEREAS**, it is requested that the Transportation Commission approve the policy amendments to the STIP which are detailed in the attached table and direct staff to forward this approval to the Federal Highway Administration and the Federal Transit Administration for concurrence.

**NOW, THEREFORE, BE IT RESOLVED**, the attached STIP Policy Amendment package for Amendment #14 be adopted and forwarded to the Federal Highway Administration for concurrence.

**BE IT FURTHER RESOLVED**, after said concurrence is received from the Federal Highway Administration, staff from the CDOT Office of Financial Management and Budget will finalize the policy amendments in the STIP Database.

**Resolution Number TC-1737**

**WHEREAS, the Transportation Commission, pursuant to 43-1-106 (8), C.R.S., has authority to formulate the general policy regarding state highways, to prescribe administrative practices to be followed by Colorado Department of Transportation (CDOT) regarding that policy, and to do all things necessary and appropriate with respect to state highways; and**

**WHEREAS, in section 42-4-102, C.R.S., (which is the legislative declaration to the laws concerning the regulation of vehicles and traffic) the General Assembly recognizes that many conflicts exist between state traffic laws and local traffic codes, and declares it to be its intent to promote uniformity between the state's traffic laws and the Uniform Vehicle Code to eliminate such conflicts; and**

**WHEREAS, pursuant to section 42-4-110(1)(b), C.R.S., local governments may, in the manner prescribed in part 2 of article 16 of title 31 or part 4 of article 15 of title 30, C.R.S., adopt by reference all or any part of a "model traffic code" that embodies the "rules of the road" and vehicle requirements as set out in the state traffic laws; and**

**WHEREAS, pursuant to sections 42-4-110(1)(e) and 43-2-135(1)(g), Colorado Revised Statutes, local traffic regulations pertaining to streets which are part of the State Highway System are subject to approval of CDOT before becoming effective; and**

**WHEREAS, in order to ensure that any model traffic code adopted by local governments does in fact provide uniformity with state traffic laws, it has been CDOT's long-standing policy and practice, with the direction of the Commission and in liaison with other concerned agencies, to promulgate and keep current the "Model Traffic Code" ("the Code") consistent with the aforesaid provisions, and to make that Code available to local governments for their consideration and possible adoption under section 42-4-110 (1)(b), C.R.S.; and**

**WHEREAS, consistent with that past practice and policy, CDOT has now prepared a 2009 revised edition of the Code, reflecting the changes in the state traffic laws; and**

**WHEREAS, as a matter of general state highway policy, CDOT requests the Commission to accept the 2009 revised Code prepared by CDOT and to authorize its copying and distribution to local governments for their consideration and possible adoption and use.**

**NOW THEREFORE BE IT RESOLVED**, that the Transportation Commission of Colorado does hereby recognize and accept the 2009 revised Model Traffic Code as a document prepared by the Colorado Department of Transportation, in order to ensure its consistency and uniformity with the rules of the road and vehicle requirements set out in state laws as provided in section 42-4-110(1)(b) and(1)(e), C.R.S.

**FURTHER**, that the Transportation Commission authorizes CDOT to reproduce the revised Code in appropriate format and to post the same on its internet web site so as to make it available to each local government in a timely fashion and in satisfaction of the minimum requirement established by state statute for adoption by reference.

**Resolution Number TC-1738**

**WHEREAS**, Mr. Randy Milam representing HDT Thirty One LLC, with certain property interests adjacent to US 24 at mile marker 213.38, within Johnson Village in Chaffee County, has requested a hearing before the Transportation Commission of Colorado regarding access permit denial by the Colorado Department of Transportation; and

**WHEREAS**, the Commission, in accordance with Section 43-2-147(6)(c), C.R.S. may choose to hold the hearing or delegate the hearing to an administrative law judge; and

**WHEREAS**, the Commission has decided to delegate this hearing request to an administrative law judge with the Office of Administrative Courts.

**NOW THEREFORE BE IT RESOLVED**, this Commission hereby directs the Chief Transportation Counsel to make arrangements to have this hearing held before an administrative law judge from the Department of Personnel, Office of Administrative Courts.

**First Supplement to the Fiscal Year (FY) 2010 Budget**

Chief Financial Officer Heather Copp reviewed the significant items in the supplement by investment category. Under Program Delivery, Ms. Copp noted that as directed by the Commission, \$1.2 million was added to the Eisenhower Tunnel budget and \$1.2 million was taken from the FY 2010 Contingency fund and distributed to Regions 1 and 5 to offset the lack of additional Gaming Funds for maintenance and safety around gaming communities. A confirmation item was to transfer \$120 thousand from Contingency to Region 2 for an emergency fix of wiring at U.S. 24/Meridian Road.



**Additional items were to transfer \$1.8 million of Region 1 ARRA funding for the US 285 Schaffer's Crossing Interchange project; \$1.5 million of FY 2010 Bridge funds to Region 5 for the Mineral Creek Bridge; and to transfer \$64 thousand of Regional Priority Program funds to supplement the Department of Health's contribution of \$160 thousand for the construction of the 6<sup>th</sup> Avenue Frontage Road Noise wall. With adoption of the supplement, the Commission's Snow & Ice Contingency Reserve would be \$10 million remain at zero and the Transportation Commission Contingency Reserve Fund (TCCRF) would be \$104 million.**

**Vice Chairwoman Killin moved for adoption of the resolution including the additional items with Commissioner Parker seconding the motion. Vice Chairwoman Killin agreed with the need to maintain a large contingency to account for the debt service shortfall, funds needed to match the 7<sup>th</sup> Pot earmarks and the potential rescission in September; however, she thought the Commission and staff need to be open to use the funds above the usual 5 percent contingency level. Chairman Kaufman then called for the question and on a vote of the Commission the following resolution was unanimously adopted.**

**Resolution Number TC-1739**

**BE IT RESOLVED, that the First Supplement to the Fiscal Year 2010 Budget be approved by the Commission.**

**Colorado State Infrastructure Bank (COSIB) Interest Rate**

**Ms. Copp recommended the Transportation Commission establish the COSIB interest rate at 3.5 percent for Fiscal Year 2010. And on a motion by Aden second by Krawzoff and a vote of the Commission the following resolution was unanimously adopted.**

**Resolution Number TC-1740**

**WHEREAS, the Colorado State Infrastructure Bank (bank) is a transportation investment bank with the ability to make loans to public and private entities for the formation of public transportation projects within the state; and**

**WHEREAS, the General Assembly has passed Legislation (43-1-113.5 CRS) that made certain provisions for the bank and established within the bank, a highway account, a transit account, an aviation account and a rail account; and**

**WHEREAS, the Transportation Commission has adopted rules, pursuant to 43-1-113.5 CRS, regarding the eligibility requirements, disbursement of funds, interest rates, and repayments of loans from the bank; and**

**WHEREAS, pursuant to 2CCR 605-1 (rule 5) the Transportation Commission is required to set the bank's interest rate and the origination fee on loans for each fiscal year; and**

**WHEREAS, the Director of the Office of Financial Management and Budget (OFMB) has recommended an interest rate of 3.5 percent on loans and that no origination fee shall be assessed on bank assistance in State fiscal year 2010.**

**NOW THEREFORE BE IT RESOLVED, the Transportation Commission authorizes the Chief Financial Officer (CFO), under the terms and provisions set forth in the adopted rules, to assess an interest rate of 3.5 percent and no origination fee on bank loans in State fiscal year 2010.**

#### **COSIB Loan**

**Ms. Copp briefly discussed the request to adjust the original payment schedule on the Gunnison County loan. And on a motion by Krawzoff second by Sobanet and a vote of the Commission the following resolution was unanimously adopted.**

#### **Resolution Number TC-1741**

**WHEREAS, the Colorado State Infrastructure Bank (bank) is a transportation investment bank with the ability to make loans to public and private entities for the formation of public transportation projects within the state; and**

**WHEREAS, the General Assembly has passed Legislation (43-1-113.5 CRS) that made certain provisions for the bank and established within the bank, a highway account, a transit account, an aviation account and a rail account; and**

**WHEREAS, the Transportation Commission has adopted rules, pursuant to 43-1-113.5 CRS, regarding the eligibility requirements, disbursement of funds, interest rates, and repayments of loans from the bank; and**

**WHEREAS, the County of Gunnison (sponsor), borrowed \$557,095 from the aviation account to purchase snow removal equipment on July 18, 2006; and**

**WHEREAS, the sponsor has made a principal payment of \$324,621 in excess of its scheduled payment; and**

**WHEREAS, accordingly the sponsor has requested that its original payment schedule be adjusted based on the new balance outstanding; and**

**WHEREAS, the Colorado Department of Transportation's Chief Financial Officer (CFO) supports the adjustment**

**NOW THEREFORE BE IT RESOLVED, the Transportation Commission authorizes CDOT, under the guidance and direction of the CFO, to adjust the sponsor's payment schedule based on the outstanding balance net of the additional principal payment.**

#### **Maintenance Project Plan**

**Maintenance Director David Wieder presented the statewide list of projects to be performed by maintenance forces for Fiscal Year 2010. Commissioner Aden moved for adoption of the resolution which was seconded by McKnight. And on a vote of the Commission the following resolution was unanimously adopted.**

#### **Resolution Number TC-1742**

**WHEREAS, under Senate Bill 98-148, public projects supervised by the Colorado Department of Transportation (CDOT) are exempt from the requirements of the "Construction Bidding for Public Projects Act;" and**

**WHEREAS, Section 24-92-109, Colorado Revised Statutes, as amended, requires CDOT to prepare cost estimates for projects to be undertaken by CDOT maintenance crews that exceed \$50 thousand but are less than or equal to \$150 thousand for submission to the Transportation Commission for review and approval; and**

**WHEREAS, CDOT staff have prepared cost estimates for projects to be done in Fiscal Year 2010 as detailed in the memorandum entitled Projects by Maintenance Forces for Maintenance Forces Requiring Transportation Commission Approval, dated June 15, 2009; and**

**WEREAS, the funding for these projects is contained in the Fiscal Year 2010 Budget.**

**NOW THEREFORE BE IT RESOLVED, the Transportation Commission has reviewed the cost estimates, as contained in the official agenda, and approves CDOT Maintenance Forces undertaking the projects therein.**

**Good Faith Effort Joint Committee**

**Administration and Human Resources Director Celina Benavidez recommended establishing the committee to review the Good Faith Effort Standard and Process. Commissioner Barry moved for adoption of the resolution. The motion was seconded by McKnight and on a vote of the Commission the following resolution was unanimously adopted.**

**Resolution Number TC-1743**

**WHEREAS, the Colorado Department of Transportation maintains a Disadvantaged Business Enterprises (DBE) program as condition of receiving federal funds, subject to Title 49 Code of Federal Regulations Part 26; and**

**WHEREAS, the DBE program provides assistance to minorities, women and other socially and economically disadvantaged individuals to enter the highway construction and design industries; and**

**WHEREAS, the Transportation Commission of Colorado established the DBE standing committee to provide oversight, policy and direction; and**

**WHEREAS, the Transportation Commission sets annual DBE goals to be implemented by setting of appropriate, narrowly tailored goals on projects depending on the regional availability of DBEs based upon current findings and reports.**

**WHEREAS, CDOT monitors DBE participation in construction and design contracts and reports the results to the Commission through the DBE Committee so that the Commission can evaluate the status of all DBE goals and the need for any appropriate future changes to the DBE program.**

**WHEREAS, the Good Faith Effort standard provides guidance for prime contractors to follow to make DBE contracting commitments at the time their bids are submitted; and**

**WHEREAS, based on public comment, the DBE Committee recommends that the Transportation Commission create a joint committee to review CDOT's GFE process and criteria; and**

**WHEREAS, membership would consist of representatives of the contracting community, public interest members, CDOT, the Attorney General's Office, the Federal Highway Administration and the Accountability Board.**

**NOW THEREFORE BE IT RESOLVED, the Commission hereby approves creation of a Joint Committee and requests any recommendations for improvements to the GFE process or additional criteria be submitted as soon as practicable for consideration by the Transportation Commission.**

#### **Achievement Awards**

**Executive Director George stated that Transportation Maintenance Workers Josh Velasquez and Willie Atencio, along with co-worker Dennis Albert, were working on a shoulder project on La Veta Pass and during lunch Dennis choked on a bite of food. Velasquez and Atencio quickly applied the Heimlich Maneuver and dislodged the food.**

**LTC Ops I, Ron Quintana said the men's effort to dislodge the food was difficult and took repeated attempts. Professional medical help was at least 30 minutes away and the situation could have deteriorated to a life-threatening situation. Josh and Willie both credit the training they received at CDOT's Maintenance Academy with preparing them to assist in that type of emergency situation.**

#### **Other Matters and Adjournment**

**And there being no further matters to discuss, Chairman Kaufman adjourned the meeting at 11:50 a.m. on June 18, 2009.**

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**Stacey A. Stegman, Secretary  
Transportation Commission of Colorado**